

NO. PD-0039-19
COA NO. 03-17-00669-CR

IN THE
COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS

FILED
COURT OF CRIMINAL APPEALS
5/31/2019
DEANA WILLIAMSON, CLERK

STATE OF TEXAS	§	PETITIONER
VS.	§	
JOHN CHRISTOPHER FOSTER	§	RESPONDENT

APPEAL FROM THE 403RD JUDICIAL DISTRICT COURT

TRAVIS COUNTY, TEXAS

CAUSE NO. D-1-DC-17-201020

STATE'S FIRST MOTION FOR EXTENSION OF TIME TO FILE BRIEF
ON THE MERITS ON PETITION FOR DISCRETIONARY REVIEW

TO THE HONORABLE COURT OF APPEALS:

The State of Texas respectfully moves for an extension of the deadline for filing the Petitioner's brief on the merits after granting discretionary review and, in accordance with Texas Rules of Appellate Procedure 70.1 and 10.5(b), advises the Court as follows:

- (a) Respondent was convicted in Travis County of Aggravated Assault. The trial court assessed Respondent's punishment at seventeen years and six months confinement.
- (b) The Third Court of Appeals reversed and remanded the conviction on July 24, 2018.
- (c) The petitioner filed a petition for discretionary review on January 9, 2019. This Court granted the petition on May 1, 2019.
- (d) The Petitioner's brief on the merits is currently due on **May 31, 2019**.
- (e) This request is that the deadline for filing the Petitioner's brief on the merits be extended by **31 days**.
- (f) The number of previous extensions of time granted for submission of the Petitioner's brief is: **none**.
- (g) The State relies upon the following facts to reasonably explain the need for an extension of the deadline:
 - 1) The attorney assigned to this case has also been working on other pressing trial court matters and has not had sufficient time to complete an adequate brief on the merits.

- 2) This request is not made for the purpose of delay, but to ensure that the Court has a proper brief on the merits to aid in the just disposition of the above cause.

WHEREFORE, the State of Texas respectfully requests that the deadline for filing the Petitioner's brief on the merits be extended to **July 1, 2019**.

Respectfully submitted,

MARGARET MOORE
District Attorney
Travis County, Texas

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CERTIFICATE OF COMPLIANCE

Pursuant to Texas Rule of Appellate Procedure 9.4(i), I hereby certify, based upon the computer program used to generate this motion, that this motion contains 266 words, excluding words contained in those parts of the motion that Rule 9.4(i) exempts from inclusion in the word count. I certify, further, that this motion is printed in a conventional, 14-point typeface.

/s/ Angie Creasy
Assistant District Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the 31st day of May, 2019, a true and correct copy of this motion was served, by U.S. mail, electronic mail, facsimile, or electronically through the electronic filing manager, to the Appellant's attorney, Ken Mahaffey, Attorney at Law, P.O. Box 684585, Austin, Texas 78768, Ken_Mahaffey@yahoo.com; and Stacey M. Soule, State Prosecuting Attorney, P.O. Box 13046, Austin, Texas 78711-3046, information@spa.texas.gov.

/s/ Angie Creasy
Assistant District Attorney